

REGULATIONS OF CONNECTICUT STATE AGENCIES

Department of Energy and Environmental Protection

Public Utilities Regulatory Authority

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Excavation Near Underground Utility Facilities

Sec. 16-345-1. Definitions

As used in sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies:

(1) “Excavator” means a person, partnership, corporation or association, including a public utility or a person engaged as a contractor by a public utility or public agency, directly performing or engaged in the act of excavation, demolition or discharge of explosives;

(2) “Public agency” means the state or any political subdivision thereof, including any governmental agency;

(3) “Public utility” means the owner or operator of underground facilities for furnishing electric distribution or transmission services, gas, telephone, telegraph, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, community television antenna, steam, traffic signal, fire signal or similar service, including a municipal or other public owner or operator, but excluding facilities owned by the owner of a private residence, for utility service solely for such residence, regardless of whether such owner or operator is otherwise subject to the jurisdiction of the Department of Public Utility Control. (An “excavator” or “public agency” may also be a “public utility”);

(4) “Central clearinghouse” means the single organization established by the public utilities pursuant to section 16-348 of the Connecticut General Statutes for the purpose of receiving and giving notice of excavation activity within the state;

(5) “Excavation” means an operation for the purposes of movement or removal of earth, rock or other materials in or on the ground, or otherwise disturbing the subsurface of the earth, by the use of powered or mechanized equipment, including but not limited to digging, blasting, auguring, back filling, test boring, drilling, pile driving, grading, plowing-in, hammering pulling-in, trenching and tunneling. Reclamation processes, and milling; excluding the movement of earth by tools manipulated only by human or animal power and the tilling of soil for agricultural purposes;

(6) “Demolition” means the wrecking, razing, rending, moving or removing of any structure;

(7) “Damage” includes but is not limited to the substantial weakening of structural or lateral support of a utility line, penetration or destruction of any utility line protective coating, housing or other protective device or the severance, partial or complete, of any utility line and “contact” includes, without limitation, the striking, scraping or denting, however slight, of any underground utility facility including any underground utility line protective coating, housing or other protective device, or any significant weakening or disturbance of the structural or lateral support of any underground utility facility;

(8) “Approximate location of underground facilities” means a strip of land not more than three feet wide or a strip of land extending not more than one and one-half feet on either side of the underground facilities;

(9) “Department” means the Department of Public Utility Control or its successor;

(10) “At or near” means within the same subsection of a section in the standard grid system established or to be established pursuant to sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies, when such term is used in connection with a proposed excavation, discharge of explosives or demolition;

(11) “Standard grid system” means a grid system established or to be established by the central clearinghouse and approved by the Department;

(12) “Facilities” means any wire, cable, pipe, vault, storage tank, transformer, or other similar property or equipment owned by public utilities for furnishing electric distribution or transmission services, gas, telephone, telegraph, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, community television antenna, steam, traffic signal, fire signal or similar service, regardless of whether such property or equipment is located on land owned by a person or public agency or whether it is located within an easement or right of way, but excluding such property or equipment owned by the owner of a private residence for utility service solely for such residence; and

(13) “Registered” when used in connection with a public utility’s facilities, includes such facilities known to the Department and the central clearinghouse to the extent that the central clearinghouse has sufficient information to provide notification service as required by subsection (d) of section 16-345 of the Connecticut General Statutes.

(Effective October 25, 1988; amended March 21, 1997, August 23, 2000)

Sec. 16-345-2. Central clearinghouse

(a) Call Before You Dig, Inc., a corporation established under the Connecticut Non-stock Corporation Act, membership in which corporation is open to all public utilities which file with it the information required by sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies, shall be the central clearinghouse.

(b) The certificate of incorporation and Bylaws of the central clearinghouse shall be subject to the approval of the Department.

(c) The central clearinghouse shall establish and submit to the Department for its approval written operating procedures, which shall detail the days and hours during which the notification system will be in full operation, and which also shall include procedures for:

(1) receiving, handling and promptly dispatching messages, to public utilities and permit issuing public agencies described in sections 16-345-6 and 16-345-7 of the regulations of Connecticut state agencies;

(2) determining the size of the proposed excavation or demolition that may be included as one notification;

(3) advising the caller to contact individual public utilities which the caller suspects might be affected by emergency excavations, discharges of explosives or demolitions during non-operation hours;

(4) retaining records of all messages for a reasonable time period;

(5) establishing and maintaining a standard grid system;

(6) providing for the institution of advertisement and educational programs to advise persons, public agencies and public utilities affected by chapter 293 of the Connecticut General Statutes, of the central clearinghouse’s terms and requirements; encouraging educational programs for the benefit of persons, public agencies and public utilities who excavate and the owners of underground utility facilities; and encouraging public and private agencies planning or undertaking construction projects to require design engineers to obtain underground utility information, identify such data on drawings, resolve facility conflicts with public utilities, and design projects to minimize adverse effects on facilities; and

(7) Such other provisions as the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety.

(d) No less than two months prior to the beginning of each fiscal year, the central clearinghouse shall propose to the Department for approval an annual budget which shall:

(1) include billing rates that shall equitably allocate the costs of operating the notification system to those public utilities whose facilities are registered with the Department; and

(2) be calculated so that the central clearinghouse shall neither make a profit nor suffer a loss, provided that if such a profit or loss does occur during any year, the budget for the next year shall be adjusted accordingly.

(e) The central clearinghouse shall, from time to time, as the Department may require, file with the Department a current list of public utilities that participate in the central clearinghouse's service, which list shall include for each such public utility:

(1) the name and title of the public utility's employee or representative responsible for receiving notice of proposed excavations, discharges of explosives or demolitions;

(2) the business address of such employee;

(3) the normal hours and days of the week ("business hours") during which such employee may be contacted at the public utility;

(4) the "business hours" telephone number where such employee or representative may be reached;

(5) an emergency telephone number to be used to contact such employee or representative during a non-business hours emergency; and

(6) such other information about each such public utility as the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety.

(f) The central clearinghouse shall, from time to time, as the Department may require, file with the Department a list of the public utilities actually known to the central clearinghouse which have not filed with it the information required to be filed by the public utilities pursuant to sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies.

(g) The central clearinghouse shall, from time to time, as the Department may require, file with the Department, a summary list of all violations and damage reported to it pursuant to subdivisions (3) and (4) of subsection (a) of section 16-345-3 of the regulations of Connecticut state agencies.

(Effective October 25, 1988; amended August 23, 2000)

Sec. 16-345-3. Responsibilities of public utilities

(a) Each public utility shall:

(1) Maintain a current file, including new facilities, with the central clearinghouse containing the information listed in subsection (e) of section 16-345-2 of the regulations of Connecticut state agencies and containing the locations, related to the standard grid system, of all its underground facilities within the State of Connecticut;

(2) Reimburse the central clearinghouse, in accordance with billing rates set by the Department as part of the central clearinghouse's budget;

(3) Notify the central clearinghouse monthly of any excavation, discharge of explosives or demolition of which it is aware which has occurred at or near any of its facilities in violation of sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies or chapter 293 of the Connecticut General Statutes. Additionally, each public utility shall file a report in January of each year indicating

the number of damage incidents, by month, or that no such damage incidents occurred to its facilities, for the prior calendar year;

(4) Notify the central clearinghouse monthly of any damage to its facilities which resulted from, or which the public utility suspects resulted from, any excavation, discharge of explosive or demolition conducted by any other person or public agency;

(5) File with the central clearinghouse such other information which the central clearinghouse or the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety;

(6) Notify the central clearinghouse as soon as possible of any person or public agency whose actions or frequency of damage incidents indicates a situation that may require particular attention; provided, however, that in deciding whether or not to make such a report, the public utility need not make or report any conclusion as to whether the reported condition or conditions represent a violation of any law or duty;

(7) Upon the exposure of previously unrecorded or inaccurately recorded facilities in the course of excavation or demolition activities and of which it has knowledge of such exposure, verify and modify existing records as necessary, and promptly make all necessary modifications, if needed, within the standard grid system maintained by the clearinghouse. The record shall be sufficiently detailed in order to allow the central clearinghouse to identify such previously unrecorded or inaccurately recorded facilities within its standard grid system; and

(8) Maintain records of all existing underground utility facility locations, including without limitation, facilities abandoned in place and interconnections to all utility users.

(b) Each public utility shall:

(1) By the end of the second full day, (excluding Saturday, Sundays and holidays) after the day of notification to the central clearinghouse of a proposed excavation, discharge of explosives or demolition at or near any of its facilities was received by the central clearinghouse, or by the date on which excavation is scheduled to commence as reported in the notification to the central clearinghouse, whichever is later:

(A) In the event that the public utility determines that it has underground facilities in the immediate vicinity of the specific site, mark the approximate location of such facilities using commercially available advanced proven techniques, methods and equipment appropriate to the circumstances, in accordance with section 16-345-5 of the regulations of Connecticut state agencies, in such a manner that will enable the party giving such notice to establish the precise location of the underground facilities so marked, or if it is not practical to so mark the location of such facilities, identify the approximate location of such facilities in a manner mutually agreeable to the public utility and the party giving such notice. Any interconnections between facilities of the public utility and others, such as tees connecting mains to customer owned facilities, shall be clearly marked and labeled by the utility providing service to the interconnection in accordance with section 16-345-5, provided, however, that such utility shall not be required to mark the location of customer owned facilities, except at the immediate location of the interconnection or tee. Whenever feasible, the public utility shall also provide information to the excavator as to any special requirements for excavation at or near its facilities including, without limitation, any special considerations regarding structural or lateral support or the use of heavy equipment over public utility facilities;

(B) Notwithstanding subparagraph (a) of this subdivision, the public utility that has a standard and repeating layout and which is connected by facilities visible on

the surface (such as certain storm sewers) need not mark out those standard and repeating facilities provided that maps indicating the approximate location are supplied to the person or public agency within the specified time limit. Facilities that are attached to a standard and repeating layout but do not conform to the standard and repeating layout shall be marked unless an alternate mutually agreeable location method is used;

(C) In the event that the public utility determines that it has no underground facilities in the immediate vicinity of the specific site, make reasonable effort to so notify the excavator giving such notice and document such efforts, or mark this information in accordance with section 16-345-5 of the regulations of Connecticut state agencies;

(2) Upon receipt of notice that the excavator, after reasonable attempt to locate the underground facilities, is unable precisely to locate the underground facilities after the approximate location of the underground facilities has been marked by the public utility, provide such further on-site assistance as may be needed to determine the precise location of the underground facilities. The assistance may be in the form of location detection equipment, or technical advice. Such technical advice may include, without limitation, the need for and advice concerning placement location or locations of test holes by the excavator at the excavator's expense. An excavator, who has failed to make a reasonable attempt to locate the facilities within the approximate area as marked out by the owner prior to calling the owner for on-site assistance, shall reimburse the facility owner for all costs incurred in the further location of such facilities. The location of the facility within the approximate area as marked out by the facility owner shall constitute failure by the excavator to have used reasonable efforts to locate;

(3) Immediately upon receipt of notice that a proposed excavation or demolition without explosives is necessary to: (A) Correct an emergency involving danger to life, health or property or involving the interruption of the operation of a major industrial plant; or (B) assure the continuity of public utility service, dispatch personnel as soon as is reasonably possible to determine the effect of the excavation or demolition on any facility it may have in the area; and if the excavation or demolition has not already occurred, to assist in establishing the location of such facilities;

(4) Upon receipt of notice that a proposed discharge of explosives is necessary immediately to correct an emergency involving an immediate and substantial danger of death or serious personal injury, dispatch personnel as soon as is reasonably possible to determine the effect of the discharge on any facility it may have in the area; and if the discharge has not already occurred, to assist in establishing the location of such facilities; and

(5) Upon receipt of notice that contact involving its underground facilities has occurred, dispatch qualified personnel as soon thereafter as is reasonably possible to effect temporary or permanent repairs and to protect the public from any potential danger resulting from the contact to its facilities.

(c) A public utility may identify, in accordance with subsection (k) of section 16-345-5 of the regulations of Connecticut state agencies, the location of a facility connected to its facilities beyond the point of the interconnection or tee, but not owned or operated by the public utility, as a helpful guide to an excavator. Said identification shall not be deemed to impose any liability upon the public utility for any inaccuracy in said identification.

(d) Each public utility individually and through appropriate utility organizations, shall maintain a program designed to educate excavators in order to minimize the

possibility of damage incidents to facilities and to minimize the potential detriment to public safety attendant with damage to underground facilities. Upon request by any excavator or any person, public agency or public utility planning an excavation, discharge of explosive or demolition, each public utility shall provide basic instruction concerning the hazards associated with its underground facilities and specific precautions necessary when working at or near those facilities.

(e) Each public utility shall attend all preconstruction meetings of which it has knowledge related to excavation, discharge of explosives or demolitions which might affect its facilities for the purpose of addressing special or particular issues related to public safety as well as other issues related to the proposed excavation, discharge or demolition.

(f) For all new underground facilities installed after January 1, 1989 which is practicable and for all repairs, replacements or modifications involving an exposure of existing underground facilities at least 100 feet longitudinally after January 1, 1989, of which the utility has knowledge of such exposure, the utility shall, where practicable, install a warning tape located above the facility, and keep appropriate records thereof. The minimum separation between the facility and the warning tape shall be 12 inches unless the depth, other underground facilities or other engineering considerations make the minimum separation unfeasible. The warning tape shall be durable, designed to withstand extended underground exposure, be of the color assigned to the type of facility for surface markings in subsection (h) of section 16-345-5 of the regulations of Connecticut state agencies and durably imprinted with an appropriate warning or message.

(Effective October 25, 1988; amended March 21, 1997, August 23, 2000)

Sec. 16-345-4. Responsibilities of excavators

(a) Any excavator responsible for excavating or discharging explosives at or near the location of public utility underground facilities or demolishing a structure containing any public utility facilities shall:

(1) Except as provided in subdivisions (2) and (3) of this subsection, at least two full days, excluding Saturdays, Sundays and holidays, but not more than thirty (30) days before commencing such excavation, discharge of explosives or demolition at or near the location of such public utilities facilities, notify the central clearinghouse of:

(A) The specific location of the site of the proposed excavation, discharge of explosives or demolition. Should field conditions or other circumstances require the excavation, discharge of explosives or demolition to be expanded outside the originally designated area established in accordance with subsection (c) of section 16-345-4 of the regulations of Connecticut state agencies, a separate notification shall be made and said notification shall be in accordance with the time requirements as provided in this subdivision;

(B) The name, address and telephone number of the entity giving the notice;

(C) The name, address and telephone number of the excavator actually performing the proposed excavation, discharge of explosives or demolition and the name, address and telephone number of the person, public agency or public utility for whom the activity is being performed, except where the work is being performed by a public or municipal utility for the benefit of a utility customer, the customer's name, address and telephone number does not have to be provided;

(D) The date on which such proposed excavation, discharge of explosives or demolition will occur. The date shall be at least two full days, excluding Saturdays, Sundays and holidays, after the notice is provided to the central clearinghouse, or after the area of proposed excavation, demolition or discharge of explosives is

designated in accordance with subsection (d) of this section whichever is later, but not more than thirty (30) days after the notice has been provided to the central clearinghouse;

(E) The type of such proposed excavation, discharge of explosives or demolition;

(F) The method to be used to identify or designate the area of proposed excavation, discharge of explosives or demolition and the date by which the designation will be made, where the designation is not already shown on preconstruction plans;

(G) If it is an emergency, the basis for the emergency; and

(H) Such other information as the central clearinghouse or the Department shall deem necessary to carry out the objectives of chapter 293 of the Connecticut General Statutes and the public safety;

(2) In the event that an excavation or demolition without explosives is necessary to correct an emergency involving danger to life, health, or property or the interruption of operation of a major industrial plant, or to assure the continuity of public utility service:

(A) immediately provide the notice required by subdivision (1) of this subsection to the central clearinghouse if it is during hours when the central clearinghouse is open for the purpose of determining the public utilities with facilities located at or near the site of the demolition unless the public utilities whose facilities may be affected are already known from a prior notification for excavation;

(B) immediately provide the notice required by subdivision (1) of this subsection directly to the involved utilities; and

(C) notify the central clearinghouse by telephone of the emergency and response taken as soon as reasonably possible if such notice was not given immediately prior to the excavation or demolition;

(3) In the event that the use of explosives is necessary to correct an emergency involving an immediate and substantial danger of death or serious personal injury, immediately:

(A) provide the notice required by subdivision (1) of this subsection to the central clearinghouse if it is during hours when the central clearinghouse is open for the purpose of determining the public utilities with facilities located at or near the site of the discharge unless the affected public utilities are already known from a prior notification for excavation;

(B) immediately provide the information required by subdivision (1) of this subsection directly to the affected public utilities prior to discharge of the explosives; and

(C) provide notice directly to the central clearinghouse as soon as possible after the discharge if such notice was not given immediately prior to the discharge;

(4) Use prudent judgment in determining whether to proceed with the excavation, discharge of explosives or demolishing prior to the identification of any or all of the facilities in the events covered by subdivisions (2) and (3) of this subsection. In exercising such judgment, the excavator shall consider, among other things, the potential hazard to life and property while awaiting public utility personnel to locate all the facilities, the need for public utility personnel to locate the facilities having the greatest potential for detriment to the public safety and the potential hazards that could result from proceeding without having located the facilities and potential damage to those facilities;

(5) Exercise reasonable care when working in proximity to the underground facilities of any public utility. Reasonable care shall include, without limitation, the use of construction methods appropriate to ensure the integrity of existing utility

facilities and their man-made temporary and permanent support including but not limited to adequate and proper shoring and proper backfill methods and techniques; the selection of equipment and explosives capable of performing the work with the minimum reasonable likelihood of disturbance to underground facilities; adequate supervisory personnel to ensure proper actions; proper understanding by the personnel on the job site of the authority of all parties involved in the activity so that prompt action can be taken in the event of unanticipated contact with underground facilities; adequate training of employees in executing their assignments to ensure protection of utility facilities and the public; maintaining necessary liaison with owners of underground facilities; sponsoring preplanning and preconstruction meetings as necessary, and complying with all applicable laws and regulations. If the excavator is utilizing trenchless excavation, the excavator shall, if such excavation is expected to cross or encroach within the approximate location of underground facilities either horizontally or vertically, prior to the crossing or encroaching, determine the precise location of such underground facilities expected to be so crossed or encroached;

(6) In the event that underground facilities of a public utility are likely to be exposed by such excavating, discharging of explosives or demolishing, provide such support or protection, or both, as may be necessary to protect such facilities from damage. Where underground facilities containing combustible or hazardous fluids or gases (such as natural gas, propane, jet fuel or chlorine) are likely to be exposed or where the proposed excavation, discharge of explosives or demolition is to occur within the approximate location of such facilities or affecting such facilities, except for excavations performed in connection with the need to expose such underground facilities by the owner of such facilities, an excavator may use mechanical equipment solely for the purpose of removing the bituminous and concrete road surface. In such circumstances, other than for the removal of a bituminous or concrete road surface, an excavator, other than the owner exposing its own underground facilities, shall employ hand digging only;

(7) In the event that the excavator, after reasonable attempt, is unable to precisely locate the underground facilities after the approximate location of the underground facilities have been marked, the excavator must notify the public utility requesting such further assistance as may be needed to determine the precise location of the underground facility; and

(8) Avoid the covering or removal of surface markings or stakes indicating underground facilities during construction activity prior to actually excavating, discharging explosives or demolishing in the vicinity of the located facilities.

(b) When any contact is done to any underground facility of a public utility, the excavator responsible for the operations causing such contact shall immediately and directly notify the public utility which owns or operates such facility of the contact, but such person, public agency or public utility shall not tamper with or attempt to repair such facility except to repair protective coatings when authorized by the owner of the facility.

(c) An excavation notice given pursuant to subdivision (1) of subsection (a) of this section shall expire at the end of thirty (30) days from the date such notice is given to the clearinghouse. Whether or not an excavation, demolition or discharge of explosives has commenced pursuant to a valid notification at any time within the prior thirty (30) days, if such activity has not been completed or is expected to last beyond the 30 day period, a renewal notice must be provided before the expiration of the thirty day period by the excavator. The renewal shall not be applicable for

areas not designated in the prior notification. If excavation, demolition or discharge of explosives was not commenced pursuant to a valid notification at any time during the prior thirty day period following the date which the notice was originally given, notice shall be given again in accordance with subdivision (1) of subsection (a) of this section by the excavator. Where any excavation, discharge or demolition activity has remained dormant for a period of thirty (30) days from the date of the last notice given pursuant to said subdivision, an additional notice shall be given before commencing such activity by the excavator.

(d) The area of proposed excavation, discharge of explosives or demolition shall be designated by the excavator in such a manner as to enable the public utility or owner of underground facilities to know the approximate boundaries of the proposed excavation. The area shall be designated as follows:

(1) if the area of proposed excavation is less than one thousand (1,000) feet longitudinally along an existing highway, only surface marking in accordance with section 16-345-5 of the regulations of Connecticut state agencies may be used;

(2) if surface markings pursuant to section 16-345-5 of the regulations of Connecticut state agencies are not used, designation must be by clear and appropriate markings on a plan map which was originally prepared by a licensed surveyor or competent employee of a public utility company or municipal utility and delivered to the public utility whose underground facilities may be affected, if the area is 1000 feet or more longitudinally on or adjacent to an existing highway and a preconstruction meeting is held by the person or public agency performing the excavation, discharge or demolition activity and all affected public utilities are notified of such meeting; and

(3) the designation of the area shall include the maximum depth of excavation at a sufficient number of points to ensure an accurate profile unless detailed profile maps are provided. The depth information provided shall reasonably reflect the anticipated actual depth.

(e) When any contact is made with any underground facility of a public utility, the excavator responsible for the operations causing such contact shall:

(1) Immediately and directly notify the public utility which owns or operates such facility of the contact, but such excavator shall not tamper with or attempt to repair such facility except to repair protective coatings when authorized by the owner of the facility. The excavator performing the excavation, discharge of explosives or demolition shall use prudent judgment taking into account minimizing the potential detriment to public safety in determining whether to cease activities pending the arrival of qualified public utility personnel; and

(2) When such contact includes the occurring of a serious electrical short circuit or the escaping of combustible or hazardous fluids or gases (such as natural gas, propane, jet fuel or chlorine) or any other event endangering the public, the excavator responsible for the excavation, demolition or discharge involved in such damage shall also alert all persons within the danger area and take all feasible steps, including, where applicable, notifying police, fire and other emergency personnel, eliminating sources of ignition and evacuating employees and the general public from the affected area, but excluding tampering with or attempting to repair the damaged facility, to insure the public safety pending arrival of the appropriate public utility personnel.

(f) At all times when excavation, discharge of explosives or demolition are in progress there shall be a representative of the excavator present in overall charge of the operation who shall be knowledgeable regarding the operation being performed and the legal name and address of the entity that is directly responsible for the

performance of the operation. This person shall have satisfactory evidence that the notification requirements of these regulations have been met, such as the ticket number from the central clearinghouse on site at all times.

(g) Each person, or public agency involved in excavation, discharge of explosives and demolitions shall post a summary of the requirements of sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies in construction workplaces. Construction workplaces shall include, without limitation, offices of the entity performing the work in a location where persons directly involved in excavation, discharge of explosives and demolitions frequent, field offices and similar locations.

(h) The representative of the excavator shall provide the legal name and address of the entity that is directly responsible for the performance of the excavation activity and shall provide satisfactory evidence to any entity, including a public agency or public utility requesting such information. Such representative shall also be an agent for service of notice or process in any matter related to compliance with these regulations.

(i) Except as provided in subdivision (3) of subsection (a) of this section, explosives may not be discharged unless such discharge was disclosed in the original notification or upon six hours notice to all public utilities which have facilities at or near the proposed discharge location, including those that were previously indicated to have facilities at or near the proposed discharge but not in the immediate vicinity, except that on Saturdays, Sundays and holidays, eight hours notice shall be provided.

(Effective October 25, 1988; amended March 21, 1997, August 23, 2000)

Sec. 16-345-5. Surface markings

(a) All surface markings and public utility locations stakings shall be made in accordance with this section.

(b) Surface markings shall consist of paint or equivalent material. The paint or material should have sufficient lasting properties so as to stand up to wear and tear of traffic; but should be sufficiently degradable so as not to be permanent, unless the marking is intended to be permanent.

(c) Surface markings for the identification of the location of underground facilities shall be located preferably at the center line of the underground facility and at the outer limits of the proposed excavation, discharge of explosives or demolition activity.

(d) Where center-line marking is impractical, the location of the facility may be indicated by means of offset surface markings.

(e) Staking shall consist of the use of stakes made of wood or any other suitable material. Such stakes shall be placed in an upright position directly above the facility and be exposed above the ground a minimum of eighteen (18) inches. The top of the stake shall be clearly marked with both the designated utility color and identification abbreviation in accordance with subsections (h) and (i) of this section.

(f) In areas where surface markings cannot be utilized, or in areas where the use of stakes would be superior to surface markings, staking may be employed for locating facilities or for designating areas of proposed excavation, demolition or discharge of explosives. Stakes shall normally be located above the center line of the underground facility and at the outer limits of the proposed excavation, demolition or discharge of explosives activity. Stakes shall not be used for offset locations unless surface marking or center line staking is inadequate or inappropriate.

(g) Surface markings or stakes shall be located at such appropriate intervals as is necessary to clearly indicate the location and course of the underground facility.

(h) With the exception of normal traffic control markings, all markings on public streets, sidewalks and rights-of-way, and all surface markings and stakings of public utility locations and areas of proposed excavation, demolition or discharge of explosives shall be in accordance with, and shall not conflict with, the following uniform color code.

(1) Yellow—Gas, oil petroleum products, steam, compressed air, compressed gases and all other hazardous materials except water.

(2) Red—Electric power lines, electric power conduits and other electric power facilities.

(3) Orange—Communication lines or cables, including but not limited to telephone, telegraph, fire signals, cable television, civil defense, data systems, electronic controls and other instrumentation.

(4) Blue—Water.

(5) Green—Storm and sanitary sewers and drainage systems including force mains and other non-hazardous materials.

(6) Purple—Radioactive materials.

(7) White—Proposed working area of excavation, discharge of explosive or demolition; survey markings.

(8) Brown—Other.

(9) Unpainted stakes with colored ribbon—survey markings.

(i) All surface marking and staking utilized for the location of underground facilities shall contain letter designations which clearly identify the type of facility so marked or staked. Such letters shall be legible and shall be used in accordance with the following:

(1) C—Communication facilities other than telephone company facilities.

(2) CH—Chemicals.

(3) CTV—Cable television.

(4) E—Electric power.

(5) FS—Fire signals.

(6) G—Gas.

(7) HPW—High-pressure water over 125 PSIG.

(8) P—Petroleum.

(9) PP—Petroleum products (naphtha, gasoline, kerosene and similar products).

(10) S—Sewer.

(11) ST—Steam.

(12) T—Telephone company facilities.

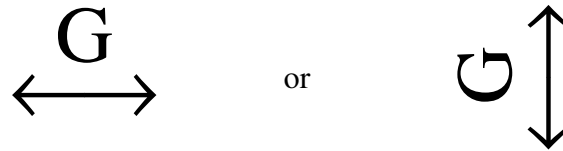
(13) TC—Traffic control signals.

(14) W—Water.

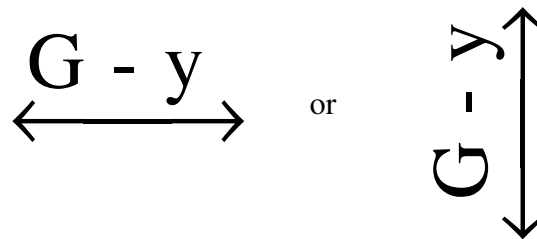
(15) O—All other facilities.

(j) All surface markings and stakings shall be in accordance with the following. (“G” is represented below, but specific product identification use shall be in accordance with subsection (i) of this section.)

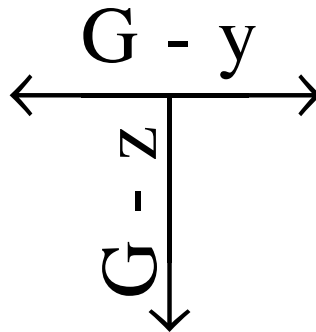
(1) Approximate location is a strip of land extending not more than one and one-half feet on either side of the markout line. The arrow indicates the direction of run. The length of the mark shall be approximately eighteen inches (18”);



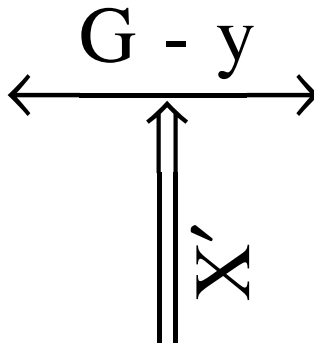
(2) Approximate location is a strip of land extending not more than one and one-half feet plus $y/2$ inches on either side of the markout line, where y is the size of the facility (e.g., y inch pipe, y inch conduit). The arrow indicates the direction of run. The length of the mark shall be approximately eighteen inches (18");



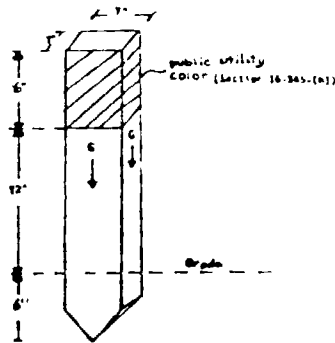
(3) A point where a facility tees off. y and z may or may not be present. y and z are the size of the respective facilities (e.g., y inch pipe, z inch conduit);



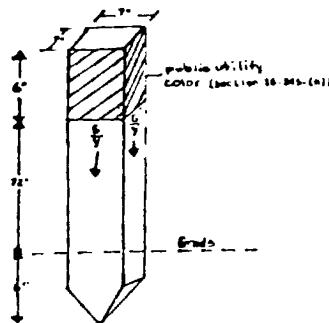
(4) Offset mark for run of pipe where X' represents the distance, in feet, from the reference line to the underground facility. y may or may not be present. y is the size of the facility (e.g., y inch pipe, y inch conduit);



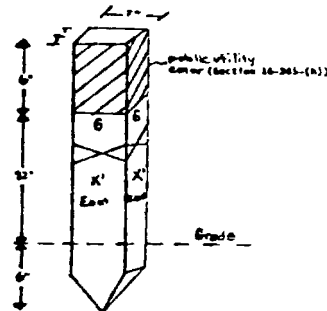
(5) Approximate location is a strip of land extending not more than one and one-half feet on either side of the line established by the series of stakes;



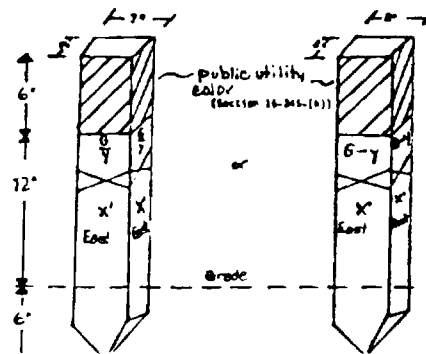
(6) Approximate location is a strip of land extending not more than one and one-half feet plus $y/2$ inches on either side of the line established by the series of stakes, where y is the size of the facility (e.g., y inch pipe, y inch conduit);



(7) Approximate location is a strip of land extending not more than one and one-half feet on either side of, and X' in the direction indicated from the line established by the series of stakes; and



(8) Approximate location is a strip of land extending not more than one and one-half feet plus $y/2$ inches on either side of, and X' in the direction (i.e., approximate compass direction) indicated from, the line established by the series of stakes, where y is the size of the facility (e.g., y inch pipe, y inch conduit).



(k) A public utility may, in accordance with the provisions of subsection (c) of section 16-345-3 of the regulations of Connecticut state agencies, identify the location of a facility connected to its facility beyond the point of the interconnection or tee, but not owned or operated by the public utility as a helpful guide to an excavator in a similar manner to subsections (a) to (j), inclusive, of this section, except that surface markings shall be dotted or broken line instead of a solid line.

(l) A public utility may signify that it has no facilities in the immediate area of a proposed excavation, demolition or discharge of explosives by writing "no name of utility or commonly recognized abbreviation" in letters at least twelve inches high using the uniform color code as described in subsection (h) of this section.

(Effective October 25, 1988; amended March 21, 1997, August 23, 2000)

Sec. 16-345-6. Permits to require compliance

Any permit, except for advance construction permits, issued by a public agency for excavation, demolition or discharge of explosives shall require satisfactory evidence of compliance with chapter 293 of the Connecticut General Statutes and sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies such as the central clearinghouse ticket number. The central clearinghouse may provide notification of each underground location request to each municipality's

permit issuing department for proposed excavations within the municipality's jurisdiction.

(Effective October 25, 1988; amended August 23, 2000)

Sec. 16-345-7. Compliance with local permit requirements

Except as provided in section 16-345-6 of the regulations of Connecticut state agencies, sections 16-345-1 to 16-345-9, inclusive, of the regulations of Connecticut state agencies shall not be construed to affect or impair local ordinances, charter or other provisions of law requiring permits to be obtained before excavating in a public highway or to demolish structures on private property, nor shall they be construed to grant to any person, excavator, or public agency any rights not specifically provided by chapter 293 of the Connecticut General Statutes and said sections. A permit from a public agency shall not relieve any person from responsibility for complying with the provisions of chapter 293 of the General Statutes and said sections. The failure of any person who has been granted a permit to comply with the provisions of chapter 293 of the General Statutes and said sections shall not be deemed to impose any liability upon the public agency issuing the permit.

(Effective October 25, 1988; amended August 23, 2000)

Sec. 16-345-8. Enforcement proceedings

(a) If the Department has reason to believe that a violation has occurred for which a civil penalty has been established for violations of chapter 293 of the Connecticut General Statutes, as provided in section 16-356 of the Connecticut General Statutes, or of any provisions of sections 16-345-1 to 16-456-9, inclusive, of the regulations of Connecticut state agencies, the department may send to the violator by certified mail, return receipt requested, or by personal service, a notice which shall include:

- (1) A reference to the section of the statute, regulation or order involved;
- (2) A short and plain statement of the matters asserted or charged;
- (3) A statement of the amount of the civil penalties proposed to be imposed after notice and opportunity for a hearing; and
- (4) A statement of the party's right to a hearing.

(b) The person, public agency or public utility to whom the notice is addressed may, no later than thirty (30) days from the date of receipt of the notice, deliver to the department written application for a hearing. If a hearing is requested then, after a hearing, and upon a finding that a violation has occurred, the department may issue a final order assessing a civil penalty under this section which is not greater than the penalty stated in the notice. If such a hearing is not so requested, or if such a request is later withdrawn, then the notice shall, on the first day after the expiration of such thirty day period or on the first day after the withdrawal of such request for hearing whichever is later, become a final order of the department and the matters asserted or charged in the notice shall be deemed admitted.

(c) All hearings under this section shall be conducted pursuant to sections 4-177 to 4-184, inclusive, of the Connecticut General Statutes. The final order of the department assessing a civil penalty shall be subject to appeal under section 4-183 of the Connecticut General Statutes. No challenge to a final order of the department assessing a civil penalty pursuant to section 16-345-9 of the regulations of Connecticut state agencies shall be allowed as to any issue which could have been raised by a timely request for a hearing pursuant to subsection (b) of this section. Any civil penalty authorized by this section shall become due and payable upon the final decision becoming a final order pursuant to subsection (b) of this section.

(d) A civil penalty assessed in a final order of the department under this section may be enforced in the same manner as a judgment of the superior court. The final order shall be delivered to the respondent by personal service or by certified mail, return receipt requested.

(Effective October 25, 1988; amended August 23, 2000)

Sec. 16-345-9. Assessment of civil penalties

(a) Any person, excavator, public agency or public utility which the department finds to have violated any provision of Chapter 293 of the Connecticut General Statutes, or any regulations promulgated thereunder, may be fined, after notice and opportunity for a hearing as provided in section 16-345-8 of the Regulations of Connecticut State Agencies. In such case, such person, excavator, public agency or public utility shall, except as provided in subsection (b) of this section, forfeit and pay to the state a civil penalty in accordance with the following schedule of penalties:

(1) For violations which do not involve personal injury, death or property damage:

(A) A minimum civil penalty of two hundred dollars (\$200) for a first violation; and

(B) A civil penalty of not more than five thousand dollars (\$5,000) for a second violation and up to the statutory maximum thereafter.

(2) For violations which result in property damage:

(A) Where the amount of property damage sustained is not greater than three thousand dollars (\$3,000), a civil penalty not to exceed twelve thousand dollars (\$12,000);

(B) Where the amount of property damage sustained is greater than three thousand dollars (\$3,000), but not more than twenty thousand dollars (\$20,000), a civil penalty not to exceed twenty thousand dollars (\$20,000); and

(C) Where the amount of property damage sustained is greater than twenty thousand dollars (\$20,000), a civil penalty not to exceed forty thousand dollars (\$40,000).

(3) For a violation which results in personal injury or death, a civil penalty not to exceed forty thousand dollars (\$40,000).

(4) For any violation where a person, excavator, public agency or public utility knowingly comes in contact with an underground facility during the course of an excavation, demolition or discharge activity, and fails to notify the owner of the facility as soon as possible thereafter, a civil penalty not to exceed forty thousand dollars (\$40,000).

(5) Notwithstanding subdivisions (1) to (4), inclusive, of this subsection, the department may assess a civil penalty of up to forty thousand dollars (\$40,000) based upon the degree of threat to the public safety, and the degree of public inconvenience caused as a result of the violation.

(b) Any violation involving the failure of a public utility to mark the approximate location of underground facilities correctly or within the timeframes prescribed in section 16-345-3(b) of the Regulations of Connecticut State Agencies, which violation did not result in any property damage or personal injury and was not the result of an act of gross negligence on the part of the public utility, shall result in a civil penalty of not more than one thousand dollars (\$1,000).

(c) In determining whether to assess a civil penalty and the amount of civil penalty to be assessed, the department shall take into account the following criteria by way of aggravating and mitigating factors:

(1) The number and nature of past violations as well as any previous decisions of the department regarding prior violations;

(2) The degree of compliance with other requirements of Chapter 293 of the Connecticut General Statutes, and any regulations promulgated thereunder, especially notification to the utility in the event of damage. In particular, the department shall consider whether or not the violator has notified the utility pursuant to the provisions of sections 16-345-4(a)(1) to 16-345-4(a)(3), inclusive, and section 16-345-4(e) of the Regulations of Connecticut State Agencies;

(3) The good faith efforts of the violator to have complied with the statutes and regulations;

(4) The plans and procedures to insure compliance with the statutes and regulations in the future;

(5) The amount of damage caused to underground facilities;

(6) The nature and severity of the violation, the degree of threat to the public safety, and degree of public inconvenience caused as a result of the violation;

(7) Whether the activity was performed in the course of business by a person, excavator, public agency or public utility regularly engaged in such activity;

(8) Circumstances beyond the control of the violator, including, but not limited to, weather and, for violations based on the failure to timely mark the approximate location of underground facilities, lack of timely access to the site; and

(9) Such other factors as are in the public interest.

(d) Where the department has issued a penalty after a hearing, the department shall specify the factors used in determining the penalty by way of mitigation or aggravation.

(Effective October 25, 1988; amended August 23, 2000, February 1, 2006)